IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

CRL.A.No. 178 of 2001()

CC.756/1997 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR

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APPELLANT: COMPLAINANT

JOSEPH SHAJU
S/O.PULLAYIL
GOTHURUTH, CHENDAMANGALAM
PARUR.

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENTS: ACCUSED & STATE

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1. P.SAJEEV, S/O.PARAMESWARAN
   MALLAKKATTU VEEDU
   MANIKKEDATHU ROAD
   RAVIPURAM, KOCHI - 16.

2. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR
   HIGH COURT OF KERALA
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.178 of 2001

Dated this the 17th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 2.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl